

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>14-O-01130-DFM</b>
	)	
<b>HOWARD RONALD GOTTLIEB,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 71010,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

In this matter, respondent Howard Ronald Gottlieb was charged with one count of failing to comply with the conditions of his disciplinary probation. When Respondent then failed to participate, either in person or through counsel, in this proceeding, his default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) has now filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity to participate. The rule provides that, if an attorney’s default is entered for failing to respond to the notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney’s disbarment.<sup>2</sup>

---

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.  
<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in California on December 22, 1976, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On July 29, 2014, the State Bar properly filed and served a Notice of Disciplinary Charges (NDC) on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The State Bar received a return card from the U.S. Postal Service.

In addition, reasonable diligence was also used to notify Respondent of this proceeding. The State Bar made several attempts to contact Respondent without success. These efforts included mailing courtesy copies of the NDC to Respondent at his membership records address and to an alternative address, calling Respondent and leaving messages at his membership records telephone number and at an alternative telephone number, sending an email to Respondent at his membership records email address, conducting a Lexis report and contacting the Office of Probation of the State Bar of California in an effort to obtain additional contact information for Respondent, attempting to contact Respondent at the alternative telephone numbers and email addresses identified in the Lexis report, conducting an in-person visit at Respondent's membership records address, and identifying and speaking with Respondent's former landlord.

Respondent failed to file a response to the NDC. On September 8, 2014, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on September 25, 2014. The order entering the default was served on Respondent at his membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order; and he has remained inactively enrolled since that time.

Respondent has not sought to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On January 20, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on March 6, 2015.

Respondent has been disciplined on two prior occasions. Effective June 9, 2009, Respondent was privately reproved with conditions in case No. 07-O-14785. In that single-client matter, Respondent stipulated to willfully failing to perform legal services with competence.

Pursuant to a Supreme Court order filed on June 18, 2013, in case No. S209908, Respondent was suspended for one year, stayed, and he was placed on probation for two years,

with conditions of probation including a 60-day period of actual suspension. In that matter, Respondent stipulated to willfully failing to comply with the conditions attached to his private reproof.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

#### **Case No. 14-O-01130**

Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation), by failing to timely: (1) contact the Office of Probation to schedule a meeting; and (2) submit four quarterly reports.

### **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC, deemed admitted by the entry of the default, support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATIONS**

### **Disbarment**

The court recommends that respondent **Howard Ronald Gottlieb**, State Bar number 71010, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **California Rules of Court, Rule 9.20**

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that **Howard Ronald Gottlieb**, State Bar number 71010, be involuntarily enrolled

as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: March \_\_\_\_\_, 2015

---

DONALD F. MILES  
Judge of the State Bar Court